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HOUSE BILL 105

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO MOTOR VEHICLES; REQUIRING AN APPLICANT FOR AN INSTRUCTION PERMIT OR A PROVISIONAL LICENSE TO BE ENROLLED IN AND ATTENDING SCHOOL; AMENDING SECTIONS OF THE MOTOR VEHICLE CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-5-5 NMSA 1978 (being Laws 1978, Chapter 35, Section 227, as amended) is amended to read:

"66-5-5. PERSONS NOT TO BE LICENSED. -- The division shall not issue a driver's license under the Motor Vehicle Code to ~~any~~ a person:

A. who is under the age of eighteen years, except the division may, in its discretion, issue:

(1) an instruction permit to a ~~person~~ student fifteen years of age or ~~over~~ older.

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1 (a) who is enrolled in and attending a
2 public school, private school, home school or state
3 institution; and

4 (b) who is enrolled in and attending or
5 has completed a driver education course that includes a DWI
6 education and prevention component approved by the bureau or
7 offered by a public school;

8 (2) a provisional license to [~~any person~~] a
9 student fifteen years and six months of age or older:

10 (a) who is enrolled in and attending a
11 public school, private school, home school or state
12 institution;

13 [~~(a)~~] (b) who has completed a driver
14 education course approved by the bureau or offered by a public
15 school that includes a DWI education and prevention component
16 and has had an instruction permit for at least six months; and

17 [~~(b)~~] (c) who has successfully completed
18 a practice driving component;

19 (3) a driver's license to [~~any~~] a person
20 sixteen years and six months of age or older:

21 (a) who has had a provisional license
22 for the twelve-month period immediately preceding the date of
23 the application for the driver's license;

24 (b) who has complied with restrictions
25 on that license;

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1 (c) who has not been convicted of a
2 traffic violation that was committed during the ninety days
3 prior to applying for a driver's license; and

4 (d) who has not been adjudicated for an
5 offense involving the use of alcohol or drugs during that
6 period and who has no pending adjudications alleging an offense
7 involving the use of alcohol or drugs at the time of his
8 application; and

9 (4) to ~~[any]~~ a person thirteen years of age or
10 older who passes an examination prescribed by the division, a
11 license restricted to the operation of a motorcycle, provided:

12 (a) the motor is not in excess of one
13 hundred cubic centimeters displacement;

14 (b) ~~[no]~~ a holder of an initial license
15 ~~[may]~~ shall not carry ~~[any other]~~ a passenger while driving a
16 motorcycle; and

17 (c) the director approves and certifies
18 motorcycles as not in excess of one hundred cubic centimeters
19 displacement and by ~~[regulation]~~ rule provides for a method of
20 identification of such motorcycles by all law enforcement
21 officers;

22 B. whose license or driving privilege has been
23 suspended or denied, during the period of suspension or denial,
24 or to ~~[any]~~ a person whose license has been revoked, except as
25 provided in Section 66-5-32 NMSA 1978;

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1 C. who is an habitual drunkard, an habitual user of
2 narcotic drugs or an habitual user of any drug to a degree
3 [~~which~~] that renders him incapable of safely driving a motor
4 vehicle;

5 D. who, within [~~any~~] a ten-year period, is three
6 times convicted of driving a motor vehicle while under the
7 influence of intoxicating liquor or narcotic drug regardless of
8 whether the convictions are under the laws or ordinances of
9 this state or any municipality or county of this state or under
10 the laws or ordinances of any other state, the District of
11 Columbia or any governmental subdivision thereof. Ten years
12 after being [~~so~~] convicted for the third time, the person may
13 apply to [~~any~~] a district court of this state for restoration
14 of the license, and the court, upon good cause being shown, may
15 order restoration of the license applied for; provided that the
16 person has not been subsequently convicted of driving a motor
17 vehicle while under the influence of intoxicating liquor or
18 drug in the ten-year period prior to his request for
19 restoration of his license. Upon issuance of the order of
20 restoration, a certified copy shall immediately be forwarded to
21 the division, and if the person is otherwise qualified for the
22 license applied for, the three previous convictions shall not
23 prohibit issuance of the license applied for. Should the
24 person be subsequently once convicted of driving a motor
25 vehicle while under the influence of intoxicating liquor or

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1 drug, the division shall revoke his license for five years,
2 after which time he may apply for restoration of his license as
3 provided in this subsection;

4 E. who has previously been afflicted with or who is
5 suffering from ~~[any]~~ a mental disability or disease ~~[which]~~
6 that would render him unable to drive a motor vehicle with
7 safety upon the highways and who has not, at the time of
8 application, been restored to health;

9 F. who is required by the Motor Vehicle Code to
10 take an examination, unless he has successfully passed the
11 examination;

12 G. who is required under the laws of this state to
13 deposit proof of financial responsibility and who has not
14 deposited the proof;

15 H. when the director has good cause to believe that
16 the operation of a motor vehicle on the highways by the person
17 would be inimical to public safety or welfare; or

18 I. as a motorcycle driver who is less than eighteen
19 years of age and who has not presented a certificate or other
20 evidence of having successfully completed a motorcycle driver
21 education program licensed or offered in conformance with
22 ~~[regulations]~~ rules of the bureau. "

23 Section 2. Section 66-5-8 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 230, as amended) is amended to read:

25 "66-5-8. PROVISIONAL LICENSES--INSTRUCTION PERMITS--

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1 DRIVER EDUCATION STUDENTS--TEMPORARY LICENSES. --

2 A. A ~~[person]~~ student fifteen years and six months
3 of age or older who is enrolled in and attending a public
4 school, private school, home school or state institution and
5 who has completed a driver education course that includes a DWI
6 prevention and education program approved by the bureau or
7 offered by a public school, who has had an instruction permit
8 for at least six months and who has successfully completed a
9 practice driving component may apply to the division for a
10 provisional license. Successful completion of a practice
11 driving component shall include not less than fifty hours of
12 actual driving by the applicant, including not less than ten
13 hours of night driving. The applicant's parent or guardian
14 shall certify that the applicant has completed the practice
15 driving component.

16 B. When operating a motor vehicle, a provisional
17 licensee may be accompanied by not more than one passenger
18 under the age of twenty-one who is not a member of the
19 licensee's immediate family. A provisional license entitles
20 the licensee, while having the license in his immediate
21 possession, to operate a motor vehicle upon the public highways
22 between the hours of 5:00 a.m. and midnight. A provisional
23 licensee may drive at any hour if:

- 24 (1) accompanied by a licensed driver twenty-
25 one years of age or older;

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1 (2) required by family necessity as evidenced
2 by a signed statement of a parent or guardian;

3 (3) required by medical necessity as evidenced
4 by a signed statement from medical personnel;

5 (4) driving to and from work as evidenced by a
6 signed statement from the licensee's employer;

7 (5) driving to and from school or a religious
8 activity as evidenced by a signed statement of a school or
9 religious official or a parent or guardian; or

10 (6) required due to a medical emergency.

11 C. A provisional license shall not be issued to [a
12 ~~person~~] an applicant convicted of a traffic violation in the
13 ninety days prior to applying for a provisional license. A
14 provisional license shall be in [~~such form as to be~~] a form
15 that is readily distinguishable from an unrestricted driver's
16 license and shall contain an indication that the licensee may
17 drive without supervision.

18 D. [~~Any person~~] A student fifteen years of age or
19 older who is enrolled in and attending a public school, a
20 private school, home school or state institution and who is
21 enrolled in and attending or has completed a driver education
22 course that includes a DWI prevention and education program
23 approved by the bureau or offered by a public school may apply
24 to the division for an instruction permit. The division, in
25 its discretion after the applicant has successfully passed all

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1 parts of the examination other than the driving test, may issue
2 to the applicant an instruction permit. [~~This~~] The permit
3 entitles the applicant, while having the permit in his
4 immediate possession, to drive a motor vehicle upon the public
5 highways for a period of six months when accompanied by a
6 licensed driver twenty-one years of age or older who has been
7 licensed for at least three years in this state or in another
8 state and who is occupying a seat beside the driver except in
9 the event the permittee is operating a motorcycle.

10 E. A [~~person~~] student fifteen years of age or older
11 who is [~~a student~~] enrolled in and attending a public school,
12 private school, home school or state institution and who is
13 enrolled in and attending a driver education course that is
14 approved by the bureau or offered by a public school and that
15 includes both a DWI education and prevention component and
16 practice driving component may drive a motor vehicle on the
17 highways of this state even though he has not reached the legal
18 age to be eligible for a driver's license or a provisional
19 license. In completing the practice driving component, a
20 [~~person~~] student may only operate a motor vehicle on a public
21 highway if:

22 (1) an approved instructor is occupying a seat
23 beside the [~~person~~] student; or

24 (2) a licensed driver twenty-one years of age
25 or older who has been licensed for at least three years in this

1 state or another state is occupying a seat beside the [person]
2 student.

3 F. The division in its discretion may issue a
4 temporary driver's permit to an applicant for a driver's
5 license permitting him to operate a motor vehicle while the
6 division is completing its investigation and determination of
7 all facts relative to the applicant's right to receive a
8 driver's license. The permit shall be in his immediate
9 possession while operating a motor vehicle, and it shall be
10 invalid when the applicant's license has been issued or for
11 good cause has been refused.

12 G. [~~Any~~] A holder of an instruction permit for a
13 motorcycle shall not carry [~~any other~~] a passenger while
14 operating a motorcycle. "